

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-12774-2017

Date of Decision : November 21, 2019

Babu Lal and others

.....Petitioners

Versus

State of Haryana

...Respondent

Present : Mr. Yogesh Goyal, Advocate
for the petitioners.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for quashing of FIR No.424 dated 25.9.2016 registered under Section 10 of the Haryana Development and Regulation of Urban Areas Act, 1975 at Police Station Model Town, Rewari.

The brief facts of the case are that the petitioners vide its sale deeds between June, 2010 to December, 2010 had sold their share out of the joint holding to different persons. Counsel for the petitioner has submitted that the petitioners have, in fact, sold their entire agricultural land in a compact block without reserving any land for the purpose of developing the street or any other amenities and, therefore, it was never sold for the purpose of carving out of plots. Counsel for the petitioners further submits that the District Town Planner, Rewari submitted a complaint to the police on 22.4.2010 and, thereafter, the FIR was registered on 25.9.2016.

Counsel for the petitioners has further argued that even till date the report under Section 173 Cr.P.C. has not been submitted before the Illaqua Magistrate.

It is worth noticing that under Section 468(1) of Criminal Procedure Code it has been provided that no Court shall take cognizance of an offence of the category specified under Sub-Section(2) after the expiry of period of limitation. As per Sub-Section(2) of Section 468 Cr.P.C., period of limitation shall be (a) 6 months if the offence is punishable with fine only; (b) one year if the offence is punishable with imprisonment for a term not exceeding one year; and (c) three years if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. Under Section 469 of Criminal Procedure Code, it is provided that period of limitation in relation to an offender shall commence (a) on the date of offence; or (b) where the commission of the offence was not known to the person aggrieved by the offence or to any Police Officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or (c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence whichever is earlier. Section 473 Criminal Procedure Code, provides for extension of period of limitation in certain cases. It has been provided that any court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interest of justice.

Counsel for the petitioners has further argued that since the maximum punishment provided under Section 10 of Act is 03 years so the limitation for the Court to take cognizance of the offence shall be 03 years from the date of commission of offence which came to the notice of the aggrieved person, i.e. District Town Planner, Rewari. As it is stated in the FIR that the District Town Planner, Rewari has informed the police on 22.4.2010, when he came to know about the commission of the offence. However, the police registered the FIR on 25.9.2016 and the matter remained pending in the intervening period. Counsel for the petitioner also submits that there is nothing on the record to show that the police has explained the delay at any stage.

Learned State counsel, on instructions from the Investigating Officer has submitted that the case is still at the stage of investigation and no challan under Section 173(2) Cr.P.C. has been filed so far.

Learned State counsel, on the basis of affidavit dated 25.5.2017 of DSP, Rewari has submitted that though the communication dated 22.4.2010 was addressed to the Superintendent of Police, Rewari, yet the FIR was registered in 2016. In para 3 of the affidavit, again it is stated that the final report is yet to be filed before the Court. It was stated that since the offence committed by the petitioner is continuing offence, therefore, in terms of Section 473 Cr.P.C., the Court can take cognizance even after a long delay.

After hearing counsel for the parties, I find merit in the present petition.

Undisputedly, the registered sale deeds pertain to the period from June, 2010 to December, 2010. The complaint for the first time was given by the District Town Planner in the year 2010 to the police for registration of the FIR, however, what happened in between 06 years, nothing is explained either by the District Town Planner or by the police.

It has been held by this Court in **Janak Raj Vs. State of Haryana, 2002(4) RCR (Criminal) 248**, that where the challan was presented before the Court after a lapse of three years, i.e. beyond the period of limitation, the Court cannot take any cognizance in view of the bar under Section 468 Cr.P.C.

In the instant case, it is admitted case of the prosecution that the FIR was registered in 2016 and till date, even after the expiry of 3 years, no challan has been presented. Therefore, considering the fact of the period of limitation for taking the cognizance of the offence by the Court already stands expired and the trial Court will have no jurisdiction to take cognizance of the offence in question, in view of the bar of limitation, the present petition is allowed and the FIR No.424 dated 25.9.2016 registered under Section 10 of the Haryana Development and Regulation of Urban Areas Act, 1975 at Police Station Model Town, Rewari, is, hereby, quashed.

(ARVIND SINGH SANGWAN)
JUDGE

November 21, 2019
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Whether speaking/reasoned : YES / NO
Whether reportable : YES / NO